

ORIGINAL

Rev. 11/97

CRIMINAL COMPLAINT

UNITED STATES DISTRICT COURT		CENTRAL DISTRICT OF CALIFORNIA	
UNITED STATES OF AMERICA v. BENJAMIN ETZIONI		DOCKET NO.	
		MAGISTRATE'S CASE NO.	08-3054M
Complaint for violation of Title 18, United States Code, Section 2422(b)			
NAME OF MAGISTRATE JUDGE HONORABLE RALPH ZAREFSKY		UNITED STATES MAGISTRATE JUDGE	LOCATION Los Angeles, CA
DATE OF OFFENSE December 15, 2008	PLACE OF OFFENSE Los Angeles County	ADDRESS OF ACCUSED (IF KNOWN)	
<p>COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:</p> <p>On or about December 15, 2008, defendant BENJAMIN ETZIONI utilized a facility of interstate or foreign commerce to attempt to persuade, induce, or entice a minor to engage in any sexual activity for which any person can be charged with a criminal offense.</p>			
BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED: (See attached affidavit which is incorporated as part of this Complaint)			
MATERIAL WITNESSES IN RELATION TO THIS CHARGE:			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.		SIGNATURE OF COMPLAINANT MARC J. BOTELLO	
		OFFICIAL TITLE SPECIAL AGENT - FBI	
Sworn to before me and subscribed in my presence,			
SIGNATURE OF MAGISTRATE JUDGE(1) Ralph Zarefsky			DATE December 17, 2008

1) See Federal Rules of Criminal Procedure rules 3 and 54.

KML:kml

REC: DETENTION

KML

AFFIDAVIT

I, Marc J. Botello, being duly sworn, do hereby depose and state:

I. INTRODUCTION

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), and I have been so employed for approximately 20 years. During my tenure as a Special Agent, I have conducted and participated in numerous investigations of criminal activity. During the investigation of these cases, I have executed and participated in the execution of search and arrest warrants and seized evidence of violations of United States law. I have completed more than 48 hours of instruction on how computers and the Internet are used by individuals to sexually exploit children. I currently investigate, among other things, the sexual exploitation of children and child pornography in the Central District of California as part of the Southern California Regional Sexual Assault Felony Enforcement ("SAFE") Team. The SAFE Team is responsible for enforcing federal criminal statutes involving the sexual exploitation of children under Title 18, United States Code, Section 2251, et seq.

II. PURPOSE OF AFFIDAVIT

2. This affidavit is made in support of a criminal complaint charging BENJAMIN ETZIONI with violating Title 18, United States Code, Section 2422(b); Use of Facility of

Interstate Commerce to Attempt to Induce a Minor to Engage in Criminal Sexual Activity for Which a Person Could be Charged with a Criminal Offense.¹

3. This affidavit is intended to show that there is sufficient probable cause for the requested criminal complaint and does not purport to set forth all my knowledge of, or investigation into, this matter.

III. SHORT SUMMARY

4. As set forth in detail below, on December 15, 2008, 34-year-old BENJAMIN ETZIONI contacted Lauren, whom he believed to be a 13-year-old girl, in a Yahoo! chatroom.² In his first conversation with Lauren, ETZIONI acknowledged that engaging in a sexual act with her would be illegal, because of her age, but still suggested meeting in person so that they could have sex. On December 16, 2008, ETZIONI had another conversation with Lauren, via the internet, and arranged to meet her for sex. Later that same day, ETZIONI showed up at the agreed upon meeting location and was arrested.

IV. DEFINITIONS AND BACKGROUND INFORMATION

5. In this affidavit, the term "minor" and "sexually explicit conduct," as used herein, are defined as set forth in

¹ The conduct at issue would support numerous charges including but not limited to, Lewd Act upon a Child Under the Age of 14, California Penal Code, Section 288.

² In truth, "Lauren" was an undercover FBI agent.

~~18 U.S.C. § 2256.~~

6. Based on discussions with SAs who have many years of experience investigating child pornography and child exploitation cases, and my own personal knowledge, I have knowledge of the Internet and how it operates. For example, I know that the Internet is a worldwide computer network that allows communications, information and data to be transmitted from one computer to another across state, national and international boundaries. Among the ways that individuals who utilize the Internet can communicate with one another is through the use of electronic mail messages ("e-mail") and Instant Messenger messages ("IM").

7. The term "computer," as used herein, is defined pursuant to Title 18, United States Code, Section 1030(e)(1), as "an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device but does not include an automated typewriter or typesetter, a portable hand held calculator, or some other similar device."

8. **E-Mail.** E-mail is an electronic form of communication from one person to one or more persons via the Internet which usually contains typed-written correspondence and may contain

audio and visual images. The physical world equivalent to e-mail is writing a letter on paper to somebody and sending it to them via the U.S. Postal Service. An e-mail usually contains a message "header" which generally displays the sender's e-mail address, the recipient's e-mail address, and the date and time of the e-mail transmission. If a sender chooses to do so, he or she can type a subject line into the header.

9. **Chat Rooms.** A chat room is a public area of the Internet that users can visit in order to type messages to one another. When an Internet user joins a chat room, he or she can view the text that is typed by any of the other participants to the chat. The physical world equivalent to a chat room would be for a person to stand in a room full of people and shout a message so loudly that everyone in the room can hear it. Chat rooms usually are named based on a topic of interest and users can choose rooms to enter by searching for chat room names that reflect their particular areas of interest.

10. **Instant Messages.** IMs allow an Internet user to send and receive messages in real time to one specific user (instead of a group of users). IMs are similar to e-mail except that IMs are sent virtually instantaneously, and both parties to the message are normally logged into the Internet for the purpose of engaging in a real-time communication. In order to communicate via IMs, users must be logged onto the Internet using a unique

"screen name," which must be different from those already in use during the ongoing chat session.

11. IM conversations also can be called "chat sessions" even though it is a conversation between only two people. Individual users can also transmit photographs or graphic files in real time during an IM chat session.

12. A user can (although it is not required) be in a chat room and also at the same time send an IM to any other on-line user, including one that is in the same chat room. The physical world equivalent of this would be if a person is in a room full of people and then leans over to whisper a message in the ear of another individual in the room. If the message is sent via IM, only the sender and receiver can view the message.

13. I know from my training and experience, and from conversations with other agents with extensive experience in investigating child exploitation crimes, that it is a common practice for those who attempt to entice a minor to engage in sexual activity via the Internet to utilize e-mail, IMs, and chat room services in committing this crime.

14. Based on my training and experience, I know that people commonly use abbreviations during IM chatting. Some examples of these would be: "idk" for the phrase "I don't know"; "brb" for "Be right back"; "k" for "Okay"; and "lol" for "Laughing out loud." I also know that it is common for people in IM chats to

type in incomplete sentences, to misspell words frequently, and to not use capital letters. Throughout the IM chat sessions described below, I used some of these abbreviations.

15. **Yahoo! Incorporated.** Based on discussions with SAs who have many years of experience investigating child pornography and child exploitation cases, and my own personal knowledge, I know the following about Yahoo! Incorporated ("Yahoo!"):

a. Yahoo! is a commercial computer service company located in Sunnyvale, California, that provides services to Internet users that include e-mail, groups, Internet search capability, games, personal ads, chat, instant messaging, and other services. Many of the services offered by Yahoo! are free to the user.

b. Users of certain Yahoo! services are required to register with Yahoo! to obtain a Yahoo! ID. For example, using the "Yahoo! Games" service or using the web features of the "Yahoo! Messenger" services requires a user to sign in using a Yahoo! ID to access those services. Not all Yahoo! services, however, require a Yahoo! ID. For example, using Yahoo!'s Internet search engine does not require a Yahoo! ID.

c. A Yahoo! ID is a unique identifier of a user's account. The registration process requires that the user select an ID (sometimes referred to as a screen name, Login Name, or profile), a select password, and voluntarily supply some personal

information. This process is completed on-line by the user.

Yahoo! does not verify the information provided by the user, such as their name and address. In addition, Yahoo! does not require that a user supply a credit card account or other verifiable personal information. As a result, the name and address provided by the user in their Yahoo! ID may be fictitious.

d. Up to six "Profiles" can be associated with a single Yahoo! ID. A profile is a user's own web page where they can post information about themselves. These profiles are also known as aliases and allow the user to appear as someone other than their Yahoo! ID when using certain Yahoo! services. Yahoo! profile information is supplied by the user and is not verified by Yahoo!.

e. Other users of the Yahoo! service may be able to view profile information. A user has the option to list or unlist their profile information, similar to telephone listings.

V. PROBABLE CAUSE

A. On December 15, 2008, ETZIONI Contacts 13-year-old Lauren

16. On December 15, 2008, at approximately 2:30PM, I logged onto Yahoo! Messenger service, in an undercover capacity, using the Yahoo! screen name "lorrengrl716" (hereinafter referred to as "Lauren").

17. Using Lauren's screen name, I joined a chat room created by Yahoo! Inc. entitled "Los Angeles", a chat room known by the SAFE Team to be frequented by individuals who solicit

minors for sex. At approximately 3:00PM, an individual using the Yahoo! screen name "etzoben29," later identified as BENJAMIN ETZIONI, initiated a private IM chat session with Lauren. During this first conversation, ETZIONI confirmed that because Lauren was only 13-years-old, engaging in sex with her would be illegal, but he still suggested that they meet in person. More specifically, the December 15, 2008 chat included the following:

a. ETZIONI described himself as a 34 year old male from Santa Monica, California. ETZIONI stated, "im ben," "im in Santa monica," and "34." He then asked Lauren where she was from and how old she was, stating "where r u from," and "how old are u." After Lauren responded, "LA," and "im gonna be 14," ETZIONI stated, "i am kewl with it if u r."

b. ETZIONI asked Lauren if she had a picture of herself, stating "u got pic?" After Lauren indicated she had a picture to share, she sent ETZIONI an e-mail containing a photograph which she claimed was a photograph of herself but in actuality is a photograph of a female officer from the California Highway Patrol (CHP), taken at approximately age 13, who has consented to the use of this photograph in child exploitation cases. The photograph depicts a young female with long brown hair wearing a flowered dress. After receiving the picture, ETZIONI stated "u r cute."

c. ETZIONI proceeded to send Lauren a picture of himself. The picture was of a male, approximately 30 to 35 years of age, wearing a blue-collared shirt.

d. ETZIONI asked Lauren if she was a virgin, stating "r u a virgin." After Lauren indicated she was and asked ETZIONI if that was bad, ETZIONI responded, "not at all, especially if I get to be the one who helps you change that."

e. ETZIONI asked Lauren how far she had gone with a boy and her curfew time. ETZIONI then stated, "maybe you can come over and watch a movie sometime." When Lauren asked where he lived, ETZIONI advised "10th just off wilshire." ETZIONI then asked Lauren when she wanted to get together, stating "so when do you want to get together...how bout tommrow night."

f. ETZIONI asked Lauren for another picture and provided his email address as "etzoben29@yahoo.com." After Lauren sent him another picture of the same CHP officer at the age of 13, ETZIONI stated, "sexy pic."

g. ETZIONI then asked Lauren if he could kiss her when they met the following day, stating "so if we like each other can I kiss you tommorrow." Lauren asked if he would want to kiss her and ETZIONI stated, "ummm YEAH." ETZIONI and Lauren discussed meeting the following day and going to his house.

h. ETZIONI asked Lauren if she wanted to engage in sexual intercourse with him. The following is an excerpt of their conversation:

etzoben29: can i ask you a personal question?

lorrengrl716: sure

etzoben29: do you still want to be a virgin when you
leave my apartment

lorrengrl716: of corse !!!...why do you say that...?

etzoben29: just checking

lorrengrl716: did you have something else in mind or
something..LOL

etzoben29: i wouldnt mind

lorrengrl716: mind what?

lorrengrl716: that i wasnt a virgin or what

etzoben29: mind changing that for you

lorrengrl716: changing?

lorrengrl716: you cant change that..once you do it all the
way..you cant like change it...

etzoben29: i know that

etzoben29: thats my point silly

lorrengrl716: huh?

lorrengrl716: sorry..im confused :-/

etzoben29: would u like to lose your virginity tommrow?
thats what i was asking

lorrengrl716: with who

etzoben29: me silly

i. Lauren asked ETZIONI if he was asking her to have sex with him, stating "so you would wanna do that...is that what your asking?" ETZIONI stated, "yes." After Lauren indicated she heard from a friend that having sexual intercourse would hurt the first time, ETZIONI indicated he would be gentle and go slow, stating "some. but I'd be very gentle."

j. Lauren asked about getting pregnant and told

ETZIONI her mother would be very upset if she ever found out.

ETZIONI stated, "we would use a condom."

k. ETZIONI indicated he needed to know whether Lauren was a police officer and stated, "now I need to ask you something for my safety...are you a cop or part of any law enforcement agency." After Lauren indicated she was not, ETZIONI stated "just that i could get into A LOT of trouble...so please understand that I need to be careful." ETZIONI further stated, "I wodl go to jail for a LONG time" and "it against the law for me to do what we are talking about."

B. ETZIONI'S DECEMBER 16, 2008 Conversation with Lauren

18. On December 16, 2008, at approximately 2:00PM, ETZIONI sent Lauren an instant message, initiating an on-line conversation. This conversation included the following:

a. ETZIONI told Lauren that he could pick her up, stating "i can pick you up." Lauren asked if he meant at her house or where. ETZIONI stated, "or somewhere close to it."

b. ETZIONI asked Lauren if she was ready to engage in sex with him, stating "r u sure u r ready." Lauren asked if he meant excited to meet him or what to which ETZIONI stated, "you know." Lauren asked if he was talking about the kissing. ETZIONI indicated he was speaking about the sex acts involving more than kissing, stating "i meant the more than kissing."

c. Lauren confirmed that ETZIONI was willing to go slow with her while engaging in sexual intercourse and stated, "but you sed we could like go slow if i sed it was ok...rite?"

ETZIONI replied, "yes." ETZIONI asked Lauren if she was ready, stating "so u think u r ready for that." Lauren replied "yes" and asked ETZIONI, "do u got the condom thing?" ETZIONI replied, "yes."

d. ETZIONI then asked Lauren if he could call her on the telephone. Lauren provided her telephone number as "310-477-8160".

C. ETZIONI'S December 16, 2008 Telephone Call to Lauren

19. On December 16, 2008, ETZIONI made a telephone call to Lauren at telephone number "310-477-8160." During this conversation, SA Megan Tuttle, acting in an undercover capacity as Lauren, had a conversation with ETZIONI. This conversation included the following:

a. ETZIONI asked Lauren where she lived and indicated he would pick her up near her residence.

b. ETZIONI agreed to meet Lauren at a video store near the corner of Santa Monica Boulevard and Bundy Avenue in Santa Monica, California, at approximately 3:05 p.m..

c. ETZIONI advised he would be wearing a blue shirt and would be driving a red vehicle. He further agreed to park near the video store and meet Lauren inside the store.

D. On December 16, 2008 ETZIONI Attempted to Meet Lauren in Person

20. On December 16, 2008, at approximately 3:10 p.m., I, along with several other agents, conducted surveillance near the video store located near the corner of Santa Monica Boulevard and

~~Bundy Avenue in Santa Monica, California.~~

a. At approximately 3:20 p.m., ETZIONI was observed inside the video store. SA Bernie Riedel and I approached ETZIONI, identified ourselves and placed him under arrest without incident.

21. I subsequently interviewed ETZIONI, who after waiving his Miranda rights, stated the following:

i. ETZIONI admitted that he had been chatting with Lauren for the last two days and acknowledged knowing that Lauren was 13 years old.

ii. ETZIONI admitted that in the chats, he had discussed with Lauren meeting her to have sexual intercourse.

iii. ETZIONI admitted that the location where he was arrested was the location where he was supposed to meet Lauren.

iv. ETZIONI admitted that he went to this location with the intentions of meeting Lauren, taking her back to his residence, and engaging in sexual intercourse. ETZIONI further stated that, in the moments between when he entered the store and when he was approached by the arresting agents, he purportedly changed his mind about having sexual intercourse with Lauren.³

v. ETZIONI acknowledged that he knew that it was illegal to have sex with a minor.

³ Based upon my personal experience on the SAFE Team, as well as through my discussions with other members of the SAFE Team, I know that it is common for individuals who have been arrested for committing crimes against children to tell interviewing agents that they would not have actually committed the offense.

E. Identification of BENJAMIN ETZIONI

22. For each Instant Message conversation between ETZIONI and Lauren described above, ETZIONI used the Yahoo! screen name "etzoben29."

23. On December 16, 2008, I reviewed a fax dated December 16, 2008, that had been provided by Yahoo! Inc. regarding the Yahoo! screen name "etzoben29." I learned that the Yahoo! subscriber for the screen name "etzoben29" is BEN ETZIONI, 1125 Quail Ridge, Irvine, California, 92603, telephone number (949) 378-5178.

24. On December 15, 2008, I conducted a check of public records, Law Enforcement Report, for BENJAMIN ETZIONI and found that a person named BENJAMIN ETZIONI, with social security number xxx-xx-7288, had a current address of 942 10th Street, Apartment 9, Santa Monica, California, 90403, and previous addresses of 1217 Qual Ridge and 1125 Quail Ridge, Irvine, California, 92603.


VI. CONCLUSION

25. Based on the facts set forth herein, and based on my training, education, experience, and participation in this investigation, there is probable cause to believe that BENJAMIN ETZIONI has violated Title 18, United States Code, Section 2422(b): Use of Facility of Interstate Commerce to Attempt to

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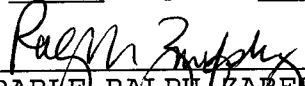
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~~Induce a Minor to Engage in Criminal Sexual Activity for Which a~~
Person Could be Charged with a Criminal Offense.



MARC J. BOTELLO
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
this 17th day of December.



HONORABLE RALPH ZAREFSKY
UNITED STATES MAGISTRATE JUDGE